REMARKS

Claims 1, 16, and 17 have been amended. No claims have been canceled or added by way of this response. Thus, claims 1-7 and 10-22 are currently pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims view of the foregoing amendments and the following remarks.

Response to Finality of Office Action:

Applicants respectfully submit that the Examiner has improperly made the instant Office Action Final. The Examiner has introduced new grounds of rejections not necessitated by amendment to the claims. For example, the Examiner rejects claim 1 in the instant office action for having "switched virtual circuits (SVC)". This was originally in the claim and was not cited by the Examiner in the first office action sent June 1, 2007. Likewise, the Examiner rejected claim 10 for having "in response to said request", which was also in the original claim and not cited by the Examiner in the first office action sent June 1, 2007. The following is a quotation from MPEP 706.07(a):

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner.

Thus, Applicants respectfully request that the Examiner withdraw the Finality of the Rejections. Furthermore, the Examiner has rejected claims supported by the Specification solely under Section 112 as being unsupported in the Specification. For Example, the Examiner rejects claim 18 stating "nowhere in the Specification discloses a step of 'updating a route table'" However, the route table is supported on page 10 lines 5-7 of Specification. Therefore, the

Examiner has not provided a proper rejection for claim 18 and the Finality of the rejection should be withdrawn.

Response to Rejections Under Section 112:

Claims 1-7, 10-7, 18, 20, 20-22 stand rejected under 35 U.S.C § 112, first paragraph, the Examiner contending that these claims fail to comply with the written description requirement.

Claim 1:

Applicants have amended the SUMMARY OF THE INVENTION section to include the description of Switched Virtual Circuits (SVC) as provided by original claim 1. Applicants respectfully disagree that this amendment is necessary, since as the Examiner has pointed out, an SVC is a type of dynamic virtual circuit (VC). However, to further prosecution of the Application Applicants have made said amendment.

Furthermore, the Examiner has stated it is unclear what is meant by "via said subscriber". The following is a quotation from MPEP 2111.01

> This means that the words of the claim must be given their plain meaning unless **>the plain meaning is inconsistent with< the specification. ...[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application.

The American Heritage® Dictionary of the English Language, Fourth Edition, retrieved January 14, 2008, from Dictionary.com website, defines via as "by way of". Applicants respectfully submit that "via said subscriber" is clear. In addition, Applicants have amended claim 1 to provide proper antecedent basis for the "subscriber".

Claim 10:

Claim 10 recites:

> to receive service advertising information due to said login, to request a bandwidth-on-demand session after said receive, and for transmitting information to said proxy signaling server in response to said request ... providing service advertising information to said client-side application due to said login

The Examiner contends that the "Specification does not disclose 'after said receive'". Applicants respectfully submit that page 8 paragraphs 1-2 and FIG 2A shows a Subscriber Login/Service Advertising section and a BOD Session Creation section, which occurs after the Subscriber Login/Service Advertising section. The Subscriber Login/Service Advertising section includes the Login request from the subscriber (202), the acknowledgment of the Login request to the subscriber (204), and a NetServicesCfm message from the subscriber 210. The Subscriber Login/Service Advertising section may also include a ServiceAdvertisement message to the subscriber (206). MPEP 706.03(c) recites:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as <u>to enable any person skilled in the art to which it pertains</u>, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The BOD Session Creation section clearly occurs after the Subscriber Login/Service Advertising section. It would be clear to one skilled in the art that the request a bandwidth-on-demand session which is part of the BOD Session Creation, is clearly <u>after receiving the service advertising information.</u>

The Examiner further contends that the "Specification does not disclose ... 'in response to said request'". Applicants respectfully submit that one skilled in the art would recognize that the request of the extra bandwidth was in order to transmit information. Furthermore, page 10, line 5 of the Specification recites:

> Following the establishment of the dynamic VC, the proxy server 140 updates the subscriber's route table <u>to route traffic over the newly created dynamic VC.</u>

One skilled in the art would recognize that transmitting information is a routing of traffic. Additionally the bandwidth-on-demand request causes the creation of the dynamic virtual circuit. Thus, the request of bandwidth-on-demand must be done prior to the transmission of information. Moreover, to further prosecution, Applicants have amended the Specification to

include the original language included in claim 10 which provides sufficient support for "in response to said request".

Additionally, the Examiner contends that the "Specification does not disclose 'providing service advertising information to said client-side application due to said login'" Applicants respectfully submit that page 8 paragraph 1 recites

> If login is possible, the proxy server 140 responds to the LoginReq message with a LoginReqAck message (step 204) containing information such as the name of available broadband services (step 206). Such information may also be sent to the subscriber in a separate Service Advertising message. After the subscriber receives the list of available serves, the data processing system 105 sends a Service AdvertisingCfm message to the proxy server 140 to acknowledge receipt of the Service Advertise message (step 208). After the list of services has been displayed to the subscriber, a NetServicesCfm message is sent to the proxy server as confirmation (step 210), which completes the Subscriber Login/Service Advertising phase.

Thus, service advertising information is sent in the LoginReqAck or in the Service Advertising message. Both the LoginReqAck and the Service Advertising message are sent in response to Login message. Therefore, providing service advertising information to said client-side application due to said login is supported in the Specification

Claim 16:

Claim 16 recites:

> to receive service advertising information from said proxy signaling server due to said login, initiate a bandwidth-on-demand session after said receive

The Examiner contends that the "Specification does not disclose 'after said receive'". For at least the reasons discussed in connection with the "after said receive" rejection in Claim 1, Additionally, Applicants have amended Claim 16 to replace "proxy server" with "proxy signal server" as suggested by the Examiner.

Claim 17:

Applicants have amended Claim 17 to recite:

initiating said bandwidth-on-demand session is <u>after</u> said providing of said service advertising information.

Applicants respectfully submit that this is supported via the Specification and FIG 2A (see e.g., 206 and BOD Session Create section).

Claim 18:

The Examiner contends that the "nowhere in the Specification discloses a step of 'updating a route table'". Applicants respectfully submit that page 10 lines 5-7 of the Specification recites:

> Following the establishment of the dynamic VC, the proxy server 140 <u>updates the subscriber's route table</u> to route traffic over the newly created dynamic VC.

Thus, updating a route table is supported by the Specification.

Response to Rejections Under Section 103:

Claims 1 stands rejected under 35 U.S.C § 103(a) as being obvious over LaCost et al. (USPN 6,453,317) in view of Sreedharan et al. (US PGPub 2002/0057700). Claims 2-7 stand rejected under 35 U.S.C § 103(a) as being obvious over LaCost et al. in view of Sreedharan et al and Cunetto et al. (US PGPub 2002/0024954).

Applicants' Claim 1, recites:

> establishing a default connection ... initiating a bandwidth-on-demand session ...said bandwidth-on-demand session creates one or more switched virtual circuits (SVCs) between said subscriber data processing system and said content-provider data processing system to supplement the bandwidth of said default connection

Examiner states that LaCost teaches "establishing a default connection (a dedicated connection, col. 6 line 5)" and teaches "initiating a bandwidth-on-demand session (to add a single route)". LaCost recites on col. 5 line 66- col. 6 line 21.

> Alternatively, a hyperstream frame relay (HSFR) connection may be used to establish a communications link between customer facilities and servers 102, 104 and 106 respectively. There are several key benefits that make this type of connection preferable over dial-up and Internet connections as discussed above. For example, a frame relay connection is a dedicated connection with guaranteed bandwidth. This insures that customers may access the

> information faster and allow developers of web sites, for example, to build content with graphics-intensive tools/pages. The circuit speeds can range from 56 kilobits (DS0) to 1.54 megabits (T1) based upon customer needs. A customer would have to add a single route to a service facility to their existing network routers <u>to support hyperstream frame relay facilities</u>. With such high-speed frame relay connections, a customer's data is only transmitted back to them and not via any other network connection which may be accessed by third parties such as those engaged in fraudulent review of network traffic. <u>This version of connectivity can add value to a service by providing dedicated access</u>. The customer, however, would purchase an <u>additional permanent virtual circuit from a service provider for dedicated bandwidth or BOD (bandwidth on demand) requirements</u>.

However, LaCost's addition of a single route is to support the dedicated connection. Therefore, Lacost addition of a single route does not teach or suggest initiating a bandwidth-on-demand session but simply a support of the frame relay facilities that provide the dedicate connection. Moreover, LaCost teaches an additional <u>dedicated connection</u> would be required to provide bandwidth on demand. Thus, <u>LaCost teaches away</u> from the bandwidth-on-demand session creating a new connection via a switch <u>virtual circuit</u>. The following is a quotation from MPEP 2143:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to <u>modify the reference or to combine reference teachings</u>. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In view of the above, claim 1 is patentable. Furthermore, Claims 2-9 which depend on claim 1 are also patentable at least based on their dependence from claim 1 as well as based on their own merits. Therefore, Applicants respectfully request that the Examiner withdraw the Section 103 rejections.

Conclusion

For the foregoing reasons, it is respectfully submitted that the objections and rejections set forth in the outstanding Office Action are inapplicable to the present claims. All correspondence should continue to be directed to our below-listed address. Accordingly, Applicants respectfully request that the Examiner reconsider the objections and rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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